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a conveyance, by an instrument under seal, assumed and covenanted to pay two deeds of trust, with which the land was burdened, his obligation to pay one of the secured notes was supported by a consideration.

[Ed. Note.—For other cases, see Mortgages, Cent. Dig. §§ 738, 739; Dec. Dig. § 281.* 10 Va.-W. Va. Enc. Dig. 17.]

2. Contracts (§ 187 (3)*)—Agreement for Benefit of Third Person.—Under Code 1904, § 2415, providing that, where a contract is made for the benefit of a third person, such person may maintain an action on the contract in his own name, there was privity of contract between the defendant's intestate, the grantee of land burdened with two deeds of trust, which he assumed and covenanted to pay, but for which his immediate grantor was not liable, and the holder of one of the secured notes.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. § 800; Dec. Dig. § 187 (3).* 3 Va.-W. Va. Enc. Dig. 458.]

Error to Corporation Court of Newport News.

Action by Gordon & Lightfoot, receivers, against the administratrix of Lawrence Casselman. From a judgment for plaintiffs, defendant brings error. Affirmed.

George Bryan and Maxwell G. Wallace, both of Richmond, for plaintiff in error.

J. R. Tucker and O'Flaherty, Fulton & Byrd, all of Richmond, for defendants. in error.

CITY GAS CO. OF NORFOLK *v.* LAWRENCE.

March 16, 1916.

[88 S. E. 73.]

1. Gas (§ 14½*)—Liability of Company—Repair Work.—It is the duty of a gas company which enters an apartment house and excavates a hole beneath the vestibule for the purpose of repairing a pipe to use ordinary care to keep the vestibule safe for persons lawfully using it, and that duty continues until the premises are restored to the same condition as before excavation, and renders the company liable for injuries to a guest of one of the tenants who fell into the opening more than 30 days after the work ceased because of the defective covering placed over it.

[Ed. Note.—For other cases, see Gas, Cent. Dig. § 12; Dec. Dig. § 14½.* 6 Va.-W. Va. Enc. Dig. 707.]

2. Gas (§ 14½*)—Liability of Company—Repair Work—Liability

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

as Contractor.—If the company's liability was that of a contractor, it would continue until the acceptance of the work.

[Ed. Note.—For other cases, see Gas, Cent. Dig. § 12; Dec. Dig. § 14½.* 6 Va.-W. Va. Enc. Dig. 707.]

3. Gas (§ 14½*)—Liability of Company—Repair Work—Proximate Cause.—The lapse of 30 days between the time the covering over an opening in a vestibule excavated to repair gas pipes was put in place and the injury to one lawfully using the vestibule does not, in the absence of some intervening cause, prevent the negligent construction of the cover from being the proximate cause of the injury.

[Ed. Note.—For other cases, see Gas, Cent. Dig. § 21; Dec. Dig. § 14½.* 6 Va.-W. Va. Enc. Dig. 707.]

4. Gas (§ 14½*)—Liability of Company—Repair Work—Liability of Others.—The fact that the landlord of an apartment house may be liable to his tenant for permitting an unsafe cover over an opening dug by a gas company to repair its pipes to remain in that condition for 30 days does not affect the liability of the gas company for its negligence in leaving the premises in that condition.

[Ed. Note.—For other cases, see Gas, Cent. Dig. § 12; Dec. Dig. § 14½.* 6 Va.-W. Va. Enc. Dig. 707.]

Error to Law and Chancery Court of City of Norfolk.

Action by Margaret Lawrence against the City Gas Company of Norfolk. Judgment for the plaintiff, and defendant brings error. Affirmed.

W. H. Taylor, of Norfolk, and *H. W. Anderson* and *A. D. Christian*, both of Richmond, for plaintiff in error.

Geo. C. Cabell, of New York City, and *Jeffries & Jeffries*, of Norfolk, for defendant in error.

CONAWAY v. COMMONWEALTH.

March 16, 1916.

[88 S. E. 75.]

1. Criminal Law (§ 1092 (8)*)—Exceptions—Statute.—In a homicide case, where the trial judge refused to sign the defendant's exceptions presented within 30 days from the end of the term, as required by Code 1904, § 3385, until the attorneys for the commonwealth should be present, and immediately after he became ill, and later died, and the exceptions were finally signed by his successor, they were valid and a part of the record as if signed within 30 days, since the accused had done everything necessary under section 3385 when she tendered

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.